

**ARTICLE \_\_\_\_**  
**Route 5 Overlay District**

**§ 280-\_\_\_\_. Intent.**

In accordance with the recommendations and policies of the Town of Hamburg 2010 Comprehensive Plan and Local Waterfront Revitalization Program (LWRP), the purpose of this zoning overlay is to establish measures to improve the quality of development and aesthetics along the Route 5 corridor. Such measures are designed to improve business conditions and enhance economic development opportunities, while at the same time to restore and continue the traditional community character for this area of the Town. These regulations will also help to alleviate traffic congestion and highway safety concerns along this section of the Town's highway system to create a more pedestrian-friendly environment. This overlay will allow the Town to better manage development and the expansion of commercial uses along Route 5 and enrich the overall visual quality and quality of life of the area.

**§ 280-\_\_\_\_. Boundary.**

This zoning overlay district shall encompass the corridor of New York State Route 5, also known as Lake Shore Road, in the Town of Hamburg, extending southwest from the municipal boundary with the City of Lackawanna to the intersection with Old Lake Shore Road.

**§ 280-\_\_\_\_. Objectives.**

The special regulations and requirements contained herein, which govern all potential development and redevelopment with the boundaries of the Route 5 Overlay District, are founded upon the following objectives.

- (1) Establish design regulations that encourage compatible building arrangements, size and form, character and landscaping to provide for a more livable, harmonious and diverse community environment.
- (2) Development and redevelopment should be designed to create a sense of identity and redefine the character of the commercial areas along Route 5 as "destinations" rather than "drive throughs." Development and redevelopment in this area should re-establish, continue and preserve the character of these hamlet areas to revitalize the community environment.
- (2) Ensure that new structures and structural modifications are designed at a scale that is conducive to the area and invites human interaction. Building designs, site improvements and amenities should be pedestrian-friendly to lend a feeling of hospitality and well being to the area. Public gathering places, such as parks, promenades and plazas, should be an essential component of site design wherever possible.
- (3) Development and redevelopment in the commercial hamlets should allow for diversity and include a mix of uses and services that generate activity and interest throughout the day, benefiting persons of all age groups and income levels.
- (4) Landscaping and other such amenities should be included in site design to improve community aesthetics, protect views of Lake Erie, screen existing parking areas and other adverse views, provide shelter from the elements, and enhance public atmosphere and, where applicable, patron experience.

- (5) Whenever possible, natural vegetation and open space should be preserved to the greatest extent possible, to provide a natural buffer between residential and business uses situated along Route 5 and to maintain and improve the aesthetic quality of the community.
- (6) Property maintenance and safety shall be promoted throughout the area to provide a prosperous and inviting area for the public.
- (7) Development and redevelopment shall be undertaken in a manner that lends protection to structures and properties of historic significance in the area. Demolition of existing structures that possess significant historic value or other elements that contribute to community character shall be discouraged. Building designs should emphasis styles that emulate existing historic character and nautical appeal.
- (8) The needs of pedestrians and shoppers, and the overall character of the area, should be placed above the needs of motorists through the appropriate placement and design of parking areas, points of ingress and egress, alleys and walkways. Site designs should avoid expansive areas of pavement and excessive curb cuts, unless deemed necessary for the general safety and welfare of the community.
- (9) Maintain and improve traffic conditions and the walkability and pedestrian circulation of the area as development and redevelopment take place.
- (10) Establish minimum requirements that recognize the need for safe and efficient traffic operations, which often appear to conflict with the objectives of developers. Reduce the number of conflict points along Route 5 to better manage highway access.

#### **§ 280-\_\_\_\_. Effect upon zoning.**

These overlay district regulations shall be superimposed over, and supplement, the underlying zoning restrictions. Each use must conform to the development standards required by the underlying zoning district and other provisions of this Chapter, as well as this overlay district, and the more stringent standards shall prevail.

#### **§ 280-\_\_\_\_. Affect upon uses.**

Within the boundaries of the Highland Commercial Overlay District, the underlying allowable uses and accessory uses in the underlying zoning districts shall be as specified in this Chapter.

#### **§ 280-\_\_\_\_. Site design provisions.**

- (1) Aesthetic and architectural features.
  - (a) The intent of the following design standards and provisions is to enhance the appearance of the built environment. By adding design detail, you can improve the character and appeal of the community and better define pedestrian linkages and areas for human activity. These improvements, in turn, can result in increased investment in the commercial districts, enhancement of property values, and overall enrichment of the quality of life in the area.
    1. All new buildings shall be set back not less than 15 feet or more than 50 feet from the property line. This setback area shall be landscaped with grass, trees and shrubs. Parking areas may be allowed within this area at the discretion of the Planning Board.

2. A yard area measuring a minimum of five feet wide shall separate proposed parking areas from parking areas located on adjoining parcels.
3. Windows shall cover a minimum of 35 percent of any façade facing a roadway, but not exceed 75 percent of this area.
4. Refuse dumpsters or containers should be located at the rear of the property and must be properly gated and screened from view with wooden or another style of fencing acceptable to the Planning Board. These structures shall not be located less than 20 feet from adjoining residential properties.
5. Loading areas shall not face the road.
6. Flat roofed structures are discouraged. Flat roofs shall be prohibited on buildings measuring less than 10,000 square feet.
7. Roof top mechanics shall be screened from public view by the use of architecturally compatible materials and components.
8. Ground level mechanical equipment shall be fully screened from public view through the use of landscaping, fencing or other design treatments compatible with the buildings.
9. Site design shall demonstrate architectural compatibility of buildings on the site, with consideration given to the appearance and style of surrounding uses. Building designs should emphasis a nautical theme.
10. Buildings identified to be of historic or distinctive character shall be preserved. The removal or disruption of historic, traditional or significant structures or architectural elements shall be discouraged.
11. All building facades that would be visible from roadways, parking areas or adjacent sites shall be architecturally designed to enhance aesthetic appearance.
12. Buildings shall be designed to eliminate long expanses of blank walls of a single color or texture.
13. The front façade of any building shall be constructed of brick, split block, stone, stucco or wood frame with cedar or lap siding or other materials acceptable to the Planning Board. The use of concrete block, cast in place concrete or cinder block is discouraged.
14. Buildings designed to advertise or promote a uniform corporate image shall be subject to the review and approval of the Planning Board.
15. Multi-user structures must be designed in such a way as to avoid the appearance of strip plaza development.
16. Elevations (minimum front and sides) and an architectural rendering with detailed drawings of façade treatments and selected building materials, specific to the proposed site, shall be submitted to the Planning Board for review and approval.
16. Outdoor storage areas are subject to the approval of the Planning Board.

17. Sidewalks measuring no less than five (5) feet in width shall be installed within the right-of-way frontage of the property to allow for adequate pedestrian activity.
  18. Sidewalks or paths should be included as a part of site design to assist with walkability. Where sites are adjacent to municipal sidewalks, they shall be connected with them.
  19. Pedestrian walkways shall be provided between buildings on a single site. Walkways shall also be incorporated into cross access points.
  20. Pedestrian walkways shall be constructed of concrete or decorative brick or similar materials. The use of black top is discouraged.
  21. Walkways located within parking areas shall be properly striped or otherwise delineated.
- (2) Off-street parking. Off-street parking, loading and stacking areas or structures shall be designed as required by §200-27 of this Chapter.
- (3) Landscaping.
- (a) General. Landscaping and the preservation of natural vegetation facilitates the creation of an attractive and harmonious community. The intent of these standards and provisions is to preserve and create a healthful and pleasant setting that relieves the stark, blighted appearance of paved surfaces, provides shade, enhances views of Lake Erie, and improves the general appearance of the built environment. Discouraging the unnecessary clearing and disturbance of land, and encouraging the aesthetic improvement of site development through the use of trees and plantings and the preservation of natural areas, can result in the overall improvement of scenic quality and the stabilization and enhancement of property values and the business environment.
    1. A minimum ground area of not less than fifteen percent (15%) of the total lot area shall be preserved as open space and landscaping.
    2. Not less than five percent (5%) of the interior of a parking area designed for twenty (20) cars or more shall be devoted to the required landscaping area and shall be distributed so as to prevent unsightliness and monotony of parked cars.
    3. The interior dimensions of any area or median shall be a minimum of seven (7) feet wide to ensure the proper growth of materials planted therein.
    4. All existing trees larger than 8 inches in diameter, as measured three feet above grade, shall not be removed without prior Planning Board approval. All groups of trees and other natural vegetation shall be incorporated onto the landscaping plan where feasible. Efforts shall be made to preserve these features, particularly along rear lot lines.
    5. A minimum of one tree per 30 feet of frontage shall be planted in the required front yard setback area. Additional trees shall be planted throughout the developed area at a ratio of one tree per 30 feet of side yard and rear yard dimensions. Trees along the side and rear lot lines may be evenly spaced or clustered together to break up the monotony of the design.
    6. On all lots that do not have an existing vegetated buffer along the rear lot line, the applicant shall vegetate this area with new shrubs and trees, and natural berming or screen fencing at the discretion of the Planning Board.

7. Landscape treatments shall be designed as an integral part of the entire development. Existing natural features and vegetation shall be preserved and incorporated into the landscaped areas wherever possible.
8. All trees planted shall have a minimum caliper of two and one-half inches (2.5) as measured six (6) inches above the ground.
9. Plastic or other types of artificial plantings or vegetation shall not be permitted.
10. The primary emphasis of the landscape treatment shall be on trees and efforts shall be made to preserve existing trees. Shrubbery, hedges, grass and other vegetation should be used to compliment the use of trees but shall not be the sole contribution to the landscape treatment.
11. Parking, loading and stacking areas and driveways located adjacent to residential districts shall be landscaped by screening and/or buffering. Such screening or buffering shall be so designed that a person standing on the adjacent residential parcel on the minimum setback line, five (5) feet above the average finished grade, would not be able to perceive by eye any uses, activities or automobile lights originating from these areas or driveways. This may be accomplished through the use of various measures such as fencing, planted materials, earthen berms or any combination thereof. Such measures shall be applied within the required side and rear yards.
12. All landscaped areas required or permitted by this section shall be maintained and preserved according to the plan as originally approved or amended by the Planning Board. Flora that dies shall be replaced within the next planting season with plantings of a similar nature.
13. The Planning Board, as a part of site plan review, may reduce the minimum number of off-street parking spaces required by this Chapter by not more than ten percent (10%), provided that the land areas so removed is not used to meet the landscaped area herein required and is used exclusively for additional landscaping or open space in accordance with the standards and criteria outlined herein. If at any time thereafter the Planning Board determines that the land area so removed is needed to provide necessary off-street parking, it may order the installation thereof. Any certificate of occupancy issued for any parking area and the building serviced thereby shall be deemed conditional upon the possible requirement for the future installation of additional parking, upon such order by the Planning Board. Failure to comply with such an order within the time fixed thereby shall constitute a violation of this Chapter.

(4) Signage.

- (a) General. By lending attention to signage and the visual appearance of signs you can provide for a more enjoyable and scenic community. The intent of the following standards and provisions is to protect and improve property values, create a more attractive economic and business environment and reduce distractions and obstructions that can disrupt the visual appeal of a commercial district. These provisions are aimed at creating a more pleasant and uniform visual setting and eliminating the chaotic and haphazard design, orientation and placement of signage that can result in scenic blight. Signage should be designed at a human scale and in relation to a walkable commercial district.

1. No sign shall be placed on public property or in the public right-of-way unless specifically authorized.
  2. No freestanding sign shall be erected on any property with less than 30 feet of frontage.
  3. No sign shall be erected in such a manner as to obstruct free egress from a window, door or fire escape or so as to become a menace to life, health or property.
  4. No sign shall be erected in such manner as to prevent the driver of any vehicle from having a clear and unobstructed view of any official sign(s), any entrance or exit roadway, any intersection, or approaching or merging traffic.
  5. Proposed signage shall be considered in conjunction with existing signage in the vicinity to insure compatibility with existing conditions and adherence to the intent of this district.
  6. No signs, except such directional devices as may be required by the Federal Aeronautical Authorities, shall be placed, inscribed or supported on the roof or above the highest part of the roofline.
  7. Electronic signboards, when permitted by the Planning Board, shall be used to report the time and temperature only.
  8. Signs shall be internally lit; no neon lighting or back lit canopies shall be permitted.
  9. Ground level/monument signage is recommended. In no case shall such signage exceed 4 feet above grade level or be greater than 60 square feet in area.
  10. Poles signs shall not exceed twelve (12) feet in height, with the lowest member (excluding the pole) not less than six (6) feet above finished grade.
  11. Street address numbers shall be posted on all buildings.
  12. Awning and unlit canopy signs shall contain only the name, logo and street number of the enterprise.
  13. Walls signs shall not exceed more than fifty (50) square feet in area or cover more than 20 percent of the wall.
  14. The appearance and placement of signage shall be subject to Planning Board discretion as part of the site plan review process.
  15. In addition to the above noted provisions, all signage shall comply with the standards outline in Article XXIV, Sign Regulations, of this Chapter.
- (5) Site lighting.
- (a) General. It is the intent of these standards and provisions to prevent, reduce or eliminate the problems created by improperly designed and installed outdoor lighting. These provisions are intended to eliminate problems of glare, minimize light trespass and help to reduce energy usage and the financial costs of outdoor lighting by establishing standards that limit the area that certain kinds of outdoor lighting fixtures can illuminate and by limiting the total allowable illumination of properties located in the overlay district. The purpose of these standards is to ensure that outdoor lighting does not interfere with the reasonable use

and enjoyment of property, and to encourage lighting practices that will prevent light pollution by reducing uplight, glare and overlighting. These regulations are also intended to provide for the safe movement of traffic, for satisfactory vision for pedestrians and for the guidance of both vehicles and pedestrians.

1. Lighting design shall not create a nuisance to adjacent residences.
2. Pole mounted lighting shall not exceed a total height of 15 feet from finished grade to the top of the fixture.
3. Lighting illumination levels shall not exceed six (6) lux / 0.6 foot candles.
4. All external lighting sources shall be designed and shielded to avoid hazardous interference and direct glare onto adjacent streets and properties.
5. The lenses in pole and wall-mounted lighting shall be recessed to control the adverse impacts of light spill out and glare.
6. A mixture of lamp types on the same site shall be avoided.
7. To provide optimum color rendition, lamps are preferred in the following order: high pressure sodium, metal halide, low pressure sodium.
8. Parking area lighting fixtures shall not be illuminated after 11:00 p.m., unless otherwise approved by the Planning Board, and shall be designed to illuminate the parking area only.
9. Security lighting and other building lighting will be allowed to operate as long as it does not create a nuisance to adjacent residences.
10. The appearance and placement of lighting shall be subject to Planning Board discretion as part of the site plan approval process. Lighting plans shall be submitted and must include illumination footprints for review by the Planning Board.

G. Access management.

- (1) General. One of the most important objectives of access management is reducing the potential for conflicts, particularly along the most heavily traveled roads. The best methods for achieving a reduction in conflicts are by reducing the number of conflict points and separating through from local traffic. Land use development and transportation can be brought into balance, and conflicts can be reduced, through appropriate limitations on the number of driveways and the enforcement of driveway and corner clearance standards.
  - (a) The site layout, location and design of driveways and parking areas should be based on full build-out of the parcel. Future subdivision of the parcel or any future action that is contrary to an approved plan cannot occur without prior Planning Board approval.
  - (b) Properties with frontage on two or more roads do not have the right to driveway access to all such roads.
  - (c) Driveways may be required to be located so as to provide shared access and/or cross access with an abutting parcel or properties.

- i. Shared driveways and/or cross access driveways shall be of sufficient width (minimum 20 feet) to accommodate two way travel for automobiles and for service and loading vehicles.
  - ii. Shared driveways, cross access driveways, interconnected parking, and private roads constructed to provide access to properties internal to a subdivision shall be recorded as an easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities shall also be recorded with the deed, where applicable.
- (d) Driveway spacing standards shall apply to driveways located on the same side of the road and shall be measured along the road from the centerline of the driveway pavement to the centerline of the next driveway.
- (e) Curb cuts and driveway spacing for new development or redevelopment will be evaluated by the Planning Board on a case-by-case basis to reduce conflicts and ensure traffic safety and efficiency. In certain cases, minimum spacing requirements, as deemed appropriate by the Planning Board and that comply with established State standards, shall be applied as follows:

Minimum Driveway Spacing Standards

	Development Size in Peak Hour Trips (pht)		
	Small 0-100 pht	Moderate 101-200 pht	Large > 201 pht
Major Arterial	330 feet	440 feet	660 feet
Collector Road	220 feet	330 feet	440 feet

- i. Peak Hour Trips (PHT) should be based on full build-out of the parcel.
  - ii. The larger of the minimum driveway spacing standards for the proposed development or for existing developments at abutting properties will apply. Driveways for in-fill development must meet the larger of the minimum driveway spacing standards for development abutting properties on both sides.
- (2) Corner clearance. Corner properties present special problems because they are extremely attractive to high volume peak-hour traffic businesses whose designs often create conflict areas that overlap with the conflict area of the intersection.
- (a) Corner clearance is to be measured along the road from the centerline of the driveway pavement to the closest edge of the road pavement. Where road widening is planned or anticipated in the future, corner clearance should be increased to provide for the width of the additional lane.
  - (b) Driveways for corner properties shall meet or exceed the minimum corner clearance requirements as follows:

Minimum Corner Clearance Requirements

Minimum clearance for partial access, right turns in and/or out only – 100 feet  
 Minimum clearance for full access, all directional movements – 220 feet



- (c) Driveways should be located outside of the functional area of the intersection or, if this is not possible, driveways should be placed as far as possible from the intersection.
- (d) Cross access to adjoining properties should be encouraged to the greatest extent possible.

(3) Driveway location.

- (a) Driveway location will be based on a site plan that has been approved by the Town Planning Board in consultation with the Town Engineer and, where appropriate, the Town Highway Superintendent.
- (b) Driveways shall be located so as to meet or exceed the minimum driveway spacing standards and the minimum corner clearance standards.
- (c) The Town Planning Board may allow the location of driveways at less than the minimum driveway spacing standards and corner clearance standards, if:
  - i. a dual-driveway system, cross access driveway system or shared driveway is proposed and this improves the safe and efficient movement of traffic between the parcel and the road,
  - ii. a driveway or driveways could be located so as to meet the minimum driveway spacing standards and corner clearance standards, but the characteristics of the parcel or the physical or operational characteristics of the road are such that a change of location will improve the safe and efficient movement of traffic between the parcel and the road; or
  - iii. conformance with the driveway spacing standards or corner clearance standards imposes undue and exceptional hardship on the property owner.
- (d) For properties unable to meet the minimum driveway spacing standards or corner clearance standards, a temporary driveway may be granted. The granting of a temporary driveway will be conditioned on obtaining a shared driveway, cross access driveway or unified parking and circulation with an adjoining parcel, and closure of the temporary driveway in the future.

**§ 280-\_\_\_\_. Definitions.**

- (1) Access – A way or means of approach to provide vehicular or pedestrian entrance or exit to a property.
- (2) Access Connection – Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public road system.
- (3) Access Management – The process of providing and managing access to land development while preserving the flow of traffic in terms of safety, capacity and speed.
- (4) Awning – A roof-like covering of canvas or other flexible material that extends from the wall of a building.
- (5) Canopy – A roof-like covering of metal or other rigid material that extends from the wall of a building.
- (6) Corner Clearance – The distance from an intersection of a public or private road to the nearest access connection.

- (7) Driveway – Any entrance or exit used by vehicular traffic to or from land or buildings abutting a road.
- (8) Electronic Sign Board – An electronically-powered sign with continually changing presentations or moving text and characters that scroll across or flash on the sign fascia.
- (9) Functional Area (Intersection) – The area beyond the physical intersection of two roads that comprises decision and maneuver distance plus any required vehicle storage length.
- (10) Landscape Services – Any use or establishment that provides off-site landscaping services requiring the use of machinery, equipment, trucks and other appurtenances that must be stored on the premises.
- (11) Non-conforming Access – Features of the access system of a parcel that existed prior to the effective date of this ordinance and that do not conform with the requirements of this ordinance.
- (12) Parcel – A division of land comprised of one or more lots in contiguous ownership.
- (13) Reasonable Access – The minimum number of access connections, direct or indirect, necessary to provide safe access to and from a public road, as consistent with the purpose and intent of this ordinance and any other applicable plans and policies of the Town.
- (14) Road – A way for vehicular traffic, whether designated s a street, highway, thoroughfare, parkway, through-way, avenue or boulevard, lane, cul-de-sac, place, or otherwise designated, and includes the entire area within the right-of-way.
- (15) Service Road – (also Access Road) a public or private road, auxiliary to and normally located parallel to a controlled access facility, that maintains local road continuity and provides access to parcels adjacent to the controlled access facility.
- (16) Shared Driveway – A driveway connecting two or more contiguous parcels to the public road system.
- (17) Strip Plaza – A structure that houses three or more commercial businesses located along a highway or on a large site that may contain other commercial facilities.
- (18) Temporary Access – Provision of direct access to a road until that time when adjacent properties develop, in accordance with a joint access agreement or frontage road plan.

**§ 280-\_\_\_\_. Other Provisions.**

- (1) The Planning Board may waive or modify any design requirements under this §280-\_\_\_\_, as long as it does not diminish the intent and purpose of the district and does not infringe upon the authority of the Zoning Board of Appeals.
- (2) All projects requiring Planning Board approval must be referred to the Shoreline Revitalization Committee and the Traffic Safety Advisory Board.